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**State of Vermont**  
**Public Service Board**

March 3, 2016

Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
445 112<sup>th</sup> Street SW  
Washington, D.C. 20554

**Re: WC Docket No. 15-1, Petition for Declaratory Ruling to Clarify That Technology Transitions Do Not Alter The Obligation of Incumbent Local Exchange Carriers to Provide DS1 and DS3 Unbundled Loops Pursuant to 47 U.S.C. § 251(c)(3)**

Dear Ms. Dortch:

The Vermont Public Service Board respectfully asks the Federal Communications Commission ("Commission") to render a decision promptly in the above-captioned Docket currently before the Commission. Specifically, we ask for a ruling that the obligations of incumbent local exchange carriers ("ILECs") to provide DS1 and DS3 capacity loops on an unbundled basis pursuant to 47 U.S.C. § 251(c)(3) and 47 C.F.R. §§ 51.319(a)(4)-(5) are not altered or eliminated by the replacement of copper with fiber or by the conversion of transmission format from time division multiplexing ("TDM") to Internet Protocol ("IP").

As we noted in our reply comments filed on February 27, 2015, competitive local exchange carriers ("CLECs"), which are a significant source of competition across the nation and in Vermont, use DS1 capacity and DS3 capacity loops to provide affordable competitive choices to small and medium-sized business customer locations. These CLECs rely on wholesale access to the last-mile facilities of the ILECs to provide these important, competitive services to small and medium-sized businesses, nonprofits, and government entities. The unbundling rule ensures that the ILECs continue to provide cost-effective last-mile access in areas where copper loops have been or are being replaced with fiber or where network access facilities are being converted

from the TDM protocol to the IP protocol. If ILECs discontinue offering these last-mile access services to CLECs, such as Windstream Corporation and Sovernet (a Vermont-based CLEC), it will have detrimental effects on competition and on consumers. In fact, large ILECs, most notably AT&T and Verizon, are indeed disclaiming any obligation to provide unbundled DS1 and DS3 capacity if the loops are comprised of fiber and/or transmitting traffic in an IP format.<sup>1</sup>

We stress that nothing in the text of the Commission's rules or Orders limits the ILECs' unbundled network element obligations once fiber is in place or once an IP format is employed. Similarly, the unbundling obligations in the Telecommunications Act are not contingent on whether the facility is copper or fiber. In the face of the ILECs' claims to the contrary, the Commission should clearly and unequivocally hold that the obligations of ILECs to provide DS1 and DS3 capacity loops on an unbundled basis pursuant to 47 U.S.C. § 251(c)(3) and 47 C.F.R. §§ 51.319(a)(4)-(5) are not changed or eliminated by the replacement of copper with fiber or by the conversion of transmission format from TDM to IP.

The Commission should act now to guarantee that customers who currently depend on legacy services continue to have appropriate access to adequate legacy or IP-based service alternatives to interconnect. We observe that there are many Vermont customers who are in the situation of depending upon legacy services. Failure to maintain an unbundling requirement for DS1 and DS3 capacity loops or a functional equivalent will undermine the competition that both state and federal regulators have sought to encourage and will hurt customers, particularly those customers in Vermont.

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1. See: *Public Notice of Network Change Under Rule 51.333(a)* for Midlothian, VA at 2, available at [http://www.verizon.com/about/sites/default/files/documents/terms/midlothian\\_amended\\_oct2014.pdf](http://www.verizon.com/about/sites/default/files/documents/terms/midlothian_amended_oct2014.pdf); *Letter & Presentation from Robert C. Barber, AT&T, to Marlene H. Dortch, FCC*, GN Docket No. 13-5, *et al.*, at 11 (filed May 30, 2014), available at <http://apps.fcc.gov/ecfs/document/view?id=7521154228>; *AT&T Reply Comments*, GN Docket Nos. 13-5 and 12-353 at 40-41 (filed Apr. 10, 2014), available at <http://apps.fcc.gov/ecfs/document/view?id=7521097854>.

Thank you for your attention, and, if you have any questions or concerns, please feel free to contact Sarah Hofmann, Board Member, at [Sarah.Hofmann@vermont.gov](mailto:Sarah.Hofmann@vermont.gov).

Sincerely,



James Volz, Chairman



Margaret Cheney, Board Member



Sarah Hofmann, Board Member